

REMARKS

Applicants have considered the Final Office Action of June 9, 2009. Claim 1 has been amended. Claims 1-33 and 35-43 are pending. Reconsideration of the remaining claims in this application is requested.

Claims 1-33 and 35-43 were rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-32 of U.S. Patent No. 7,527,770. Applicants traverse the rejection.

U.S. Patent No. 7,527,770 is the issued patent of Application Serial No. 10/485,934. As noted in the previous Amendment dated April 29, 2009, a terminal disclaimer has already been filed in that application over this application. Thus, a terminal disclaimer over U.S. Patent No. 7,527,770 is not needed here. Please note that only one terminal disclaimer needs to be filed between two applications, and that this does not change when one application matures into a patent. See MPEP § 1490. Withdrawal of the rejection is requested.

Claims 1-15, 33, and 39-43 were rejected under 35 U.S.C. 112, first paragraph, as allegedly failing the written description requirement. Applicants traverse the rejection.

The Examiner stated that the term "artificial light source" was broader than the discussion in the specification and lacked explicit support. While noting that implicit support is present and sufficient (MPEP § 2163.B), Applicants have amended claim 1 to delete this term.

Claims 1-14, 33, and 39-43 were rejected under 35 U.S.C. 103(a) as allegedly being obvious over Nozik (US 4,011,149) in view of Grantham (US 4,203,814). Applicants traverse the rejection.

Applicants have amended claim 1 to recite additional elements surrounding the photolytic cell that relate to the capture of carbon dioxide and hydrogen in the form of a sugar. These elements are also present in allowed independent claim 19, and find

support in both Figures 2 and 3 and the related text on pages 13-14 and 56-57 of the specification.

These elements are not present in the cited references.

Applicants request withdrawal of the 103(a) rejection.

Claim 15 was rejected under 35 U.S.C. 103(a) as allegedly being obvious over Nozik in view of Grantham and Gordon (US 4,650,554).

Applicants do not separately traverse this rejection at this time. Claim 1 is believed to be non-obvious, so its dependent claims are non-obvious as well. MPEP § 2143.03; *In re Fine*. Applicants request withdrawal of the rejection.

Per 37 CFR 1.116, Applicants request entry because this amendment removes rejected claim matter. In particular, claim 1 now recites elements that have already been examined in claim 19. Thus, no additional search is needed.

CONCLUSION

For at least these reasons, the pending claims (1-33 and 35-43) are in condition for allowance. Withdrawal of the rejections and issuance of a Notice of Allowance is requested.

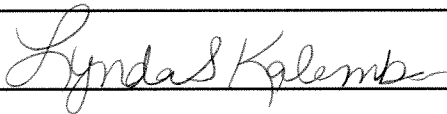
In the event the Examiner considers personal contact advantageous to the disposition of this case, he is hereby authorized to call Richard M. Klein, at telephone number 216-363-9000, Cleveland, OH.

Respectfully submitted,

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